

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1242 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

DINESHKUMAR RAMJILAL KAUSHIK

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Appearance:

Mr.M.A. Bukhari, APP for appellant.

MR DR BHATT for Respondent No. 1, 2, 3, 4

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 07/10/97

ORAL JUDGEMENT

Mainly on two counts the learned Additional Sessions Judge of Baroda allowed the Criminal Appeal No. 45 of 1984 filed by the original accused of Criminal Case No.1345 of 1983 when they came to be convicted for the offences under Sections 452, 323, 504, 506 (2) read with Section 114 all of IPC.

The incident happened in the shop of the complainant

which is situated hardly at a distance of 100 ft. from a police chowky. Though the incident had taken place on broad day light, the complaint came to be lodged after about 4 to 5 hours at Raopura Police Station and not at the said nearby police chowky. Over and above the said delay with regard to the incident itself the eye witnesses including the complainant are contradicting each other. Therefore, the learned Additional Sessions Judge felt that the order of conviction cannot be sustained.

The view taken by the learned Additional Sessions Judge after detailed discussion of the evidence on record cannot be said to be either erroneous or not a view which could be taken on the basis of the evidence on record. Therefore, there is no reason for this court to interfere with the same. The appeal is therefore dismissed. The order of the learned Additional Sessions Judge is confirmed.